



CERTIFICATE OF MAILING (37 C.F.R. § 1.8(a))	
I hereby certify that this paper, along with any referred to as being attached or enclosed, is being deposited with the United States Postal Service on the date indicated below with sufficient postage as First Class Mail in an envelope addressed to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.	
Date of Deposit: <u>01/07/2005</u>	Signature of Person Certifying: Printed Name: <u>Linda Major</u>

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Hassan MOSTAFAVI

Serial No.: 10/664,534

Filed: September 16, 2003

For: METHOD AND SYSTEM FOR
PREDICTIVE PHYSIOLOGICAL
GATING OF RADIATION THERAPY

Group Art Unit: 2857

Examiner: Elias Desta

Confirmation No.: 4278

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR §§ 1.97 and 1.98, the items identified in this Supplemental Information Disclosure Statement ("IDS") are brought to the attention of the Office. The items are listed on the attached forms PTO/SB/08a and PTO/SB/08b.

The items identified in this IDS may or may not be "material" pursuant to 37 CFR § 1.56. The submission thereof by Applicants is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as "prior art" under 35 USC § 102 with respect to this invention unless specifically designated by Applicants as such.

1. Timing of the Information Disclosure Statement:

☒ This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) within three months of the filing date of the application, which is not a continued prosecution application filed under § 1.53(d) or (2) within three months of entry of the national stage as set forth in

37 CFR § 1.491; or (3) before the mailing of a first Office action on the merits; or (4) before the mailing of a first Office action after filing a request for continued examination under § 1.114. Thus, no fee is required.

- ☒ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR § 1.17(p) to the deposit account referenced below.
- ☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.
- ☐ This IDS is being submitted under 37 CFR § 1.97(c), that is after mailing of a first Office Action on the merits, but before a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311.
- ☐ The fee due under 37 CFR § 1.17(p) is submitted herewith.
- ☐ A statement under 37 CFR § 1.97(e) is included below, thus no fee is required. In the event that this IDS is not received before a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR § 1.97(d) and charge the fee due under 37 CFR § 1.17(p) to the deposit account below.
- ☐ This IDS is being submitted under 37 CFR § 1.97(d), that is after a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311, but before payment of the issue fee. A statement under 37 CFR § 1.97(e) is included below. The fee due under 37 CFR § 1.17(p) is submitted herewith.
- ☐ This IDS is being submitted under 37 CFR § 1.97(i), that is after a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311, but before payment of the issue fee.

STATEMENT UNDER 37 CFR § 1.97(e):

- ☐ Some items contained in this IDS were cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS.
- ☐ No item contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this IDS.

2. Copies of the Cited Items:

- ☐ Copies of all of the items listed on the attached forms PTO/SB/08a and PTO/SB/08b are enclosed.
- ☒ Pursuant to 37 CFR § 1.98(a)(2)(i), copies of the following items identified on form PTO/SB/08a under the heading U.S. Patent Documents (Item Nos. 1-15; 17-24) are not attached.

- ☒ Copies of only the following items listed on the attached forms PTO/SB/08a (Item 16) and PTO/SB/08b (Items 1-7) are enclosed.
- ☐ Copies of the following documents listed in PTO/SB/08a (Item Nos. *) and copies of the following documents listed in PTO/SB/08b (Item Nos. *) were previously cited by the Office or submitted in Information Disclosure Statements in related applications: See 37 C.F.R. § 1.98(d). The Examiner is requested to make these documents of record.

3. Concise Explanation of Relevance:

- ☒ A concise explanation of relevance of the items listed on forms PTO/SB/08a and PTO/SB/08b is not given.
- ☐ A concise explanation of relevance of some of the items listed on forms PTO/SB/08a and PTO/SB/08b is in the form of an English language copy of a Search Report from a foreign patent office, issued in a counterpart application, which refers to the relevant portions of the references (copy attached).

4. Related Applications:

- ☒ Applicant(s) bring to the Office's attention the following related, co-pending application(s):
U.S. Serial No. 09/178,383 filed October 23, 1998, now Patent No. 6,621,889.

5. Conclusion:

Citation of the above documents shall not be construed as:

1. an admission that the documents are necessarily prior art with respect to the instant invention;
2. a representation that a search has been made, other than as described above; and
3. an admission that the information cited herein is, or is considered to be, material to patentability as defined in § 1.56(b).

It is respectfully requested that the Examiner indicate consideration of the cited references by returning a copy of the attached forms PTO/SB/08a and PTO/SB/08b with initials or other appropriate marks. In the unlikely event that the transmittal letter is separated from this document and the U.S. Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 50-2518**

referencing 7010733002. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: _____

1/7/05

By: _____

Janet D. Chance

Janet D. Chance

Registration No. 55,048

Bingham McCutchen LLP
Three Embarcadero Center, Suite 1800
San Francisco, California 94111-4067
Telephone: (650) 849-4904
Facsimile: (650) 849-4800

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449A-PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(use as many sheets as necessary)

Sheet 1 of 2

Complete if Known

Application Number	10/664,534
Filing Date	September 16, 2003
First Named Inventor	Hassan MOSTAFAVI
Art Unit	2857
Examiner Name	Elias Desta
Attorney Docket Number	VM7010733002

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document Number Number – Kind Code ² (if known)	Publication Date MM-DD-YY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	1	US-4,853,771	08-01-89	Witriol et al.	
	2	US-4,895,160	01-23-90	Reents	
	3	US-4,971,065	11-20-90	Pearch	
	4	US-5,482,042	01-09-96	Fujita	
	5	US-5,513,646	05-07-96	Lehrman et al.	
	6	US-5,588,430	12-31-96	Bova et al.	
	7	US-5,619,995	04-15-97	Lobodzinski	
	8	US-5,622,187	04-22-97	Carol	
	9	US-5,638,819	06-17-97	Manwaring et al.	
	10	US-5,662,111	09-02-97	Cosman	
	11	US-5,771,310	06-23-98	Vannah	
	12	US-5,820,553	10-13-98	Hughes	
	13	US-5,912,656	06-15-99	Tham et al.	
	14	US-5,993,397	11-30-99	Branson	
	15	US-6,076,005	06-13-00	Sontag et al.	

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Foreign Patent Document Country Code ³ – Number ⁴ – Kind Code ⁵ (if known)	Publication Date MM-DD-YY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
	16	WO 98/38908	09-11-98	Schneider Medical Technologies, Inc.		

Examiner's
SignatureDate
Considered

* EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

The collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2.0 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing this form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

<p>Substitute for form 1449A-PTO</p> <p>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</p> <p><i>(use as many sheets as necessary)</i></p>				<i>Complete if Known</i>	
				Application Number	10/664,534
				Filing Date	September 16, 2003
				First Named Inventor	Hassan MOSTAFAVI
				Art Unit	2857
				Examiner Name	Elias Desta
				Attorney Docket Number	VM7010733002
Sheet	2	of	2		

U.S. PATENT DOCUMENTS

[illegible]

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Country Code ³ – Number ⁴ – Kind Code ⁵ (if known)				

Examiner's Signature		Date Considered	
-------------------------	--	--------------------	--

* EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

The collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2.0 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing this form, call 1-800-PTO-9199 and select option 2.

Complete if Known

Substitute for form 1449B-PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT***(use as many sheets as necessary)*

Sheet

1

of

1

Application Number

10/664,534

Filing Date

September 16, 2003

First Named Inventor

Hassan MOSTAFAVI

Art Unit

2857

Examiner Name

Elias Desta

Attorney Docket Number

VM7010733002

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher city and/or country where published	T ²
	1.	BARONI, G. and G. FERRIGNO "Real-time Motion Analysis for Definition and Control of Patient Position in Radiotherapy" SPIE 0-81942084-0/96 2709:506-515	
	2.	GERIG, L.H. et al. "The Development and Clinical Application of a Patient Position Monitoring System" Ottawa Regional Cancer Centre, General Division, 501 Smyth Rd., Ottawa, Ontario, Canada K1H 8L6; National Research Council, IIT, Ottawa, Ontario, Canada K1A 0R6; SPIE Videometrics III (1994) 2350:59-72	
	3.	LOPRESTI, B.J. et al. "Implementation and Performance of an Optical Motion Tracking System for High Resolution Brain PET Imaging" IEEE Transactions on Nuclear Science (December, 1999) 46(6):2065-2067	
	4.	MAGERAS, G. et al. "Initial Clinical Evaluation of a Respiratory Gating Radiotherapy System" in 22nd Annual EMBS International Conference Chicago, IL (July 23-28, 2000) pp. 2124-2127	
	5.	SURAMO, M. P. et al. "Cranio-Caudal Movements of the Liver, Pancreas and Kidneys on Respiration" Acta Radiol. Diagn. (1984) 2:129-131	
	6.	YORKE, Ellen et al. "Respiratory Gating of Sliding Window IMRT" in 22nd Annual EMBS International Conference Chicago, IL (July 23-28, 2000) pp. 2118-2121	
	7.	Preliminary Search Brochure entitled "Kinematic Measurement Systems" by Qualisys printed 4/4/94	
	8.		
	9.		
	10.		
	11.		
	12.		
	13.		
	14.		
	15.		
	16.		
	17.		
	18.		
	19.		
	20.		
	21.		
	22.		

Examiner's
SignatureDate
Considered

* EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.98. This information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 120 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing this form, call 1-800-PTO-9199 and select option 2.